

Resource Guide for Employers



Provided by the
Missouri Department of Labor and Industrial Relations

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Introduction

As a new or established employer, you may have questions concerning rules and regulations that fall under the authority of the Missouri Department of Labor and Industrial Relations. This booklet is set up in a question-and-answer format to address many of those questions and provide you with a foundation of information that you will need.

The Missouri Department of Labor and Industrial Relations promotes economic security, safe and healthy workplaces as well as protects wage earners and individuals against discrimination by improving working conditions, enforcing labor and anti-discrimination laws and helping those unemployed, injured on the job and victims of crime.

In pursuit of this mission, we work to provide employers like you with detailed, comprehensive and understandable information regarding your rights and responsibilities under unemployment insurance, workers' compensation, wage and hour and child labor laws. In addition, we provide information on issues concerning discrimination in the workplace and workplace safety and health.

The information provided in this booklet is based on statutes and regulations in effect at the time of the booklet's publication. Statutes and regulations are subject to change at all times. While every attempt has been made to assure accuracy and reliability, the Department of Labor and Industrial Relations makes no warranties, either express or implied, regarding the contents of this booklet.

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Frequently Asked Questions About

Unemployment Taxes

Q. Do I have to pay Missouri unemployment tax?

- A. An entity (person, partnership, corporation, etc.) that employs a worker may be liable for Missouri state unemployment tax. Liability depends on several factors, including the type of entity and the type of work being performed. As an employer, you must complete a form called, **Report to Determine Liability Status** and submit it to the Division of Employment Security, which will use your responses to determine whether you are liable for state unemployment tax. Even entities that are not liable must complete and return this form. You can complete an online registration or get a copy of the Report to Determine Liability Status by visiting the Division's website at www.dolir.mo.gov/es/ui-tax/m2699.htm or by calling (573) 751-3215.

Q. How do I get set up to pay state unemployment tax?

- A. Register with the Division of Employment Security by completing a **Report to Determine Liability Status** form. If you are liable for state unemployment tax, the Division will send you an official written determination to that effect and you will receive **Quarterly Contribution and Wage Reports** on which to report your employees' wages. Employers may also use the Division's Unemployment State Tax Automated Reporting (USTAR) system. Instructions are provided with the quarterly contribution and wage reports. The system calculates the contribution due for an employer and allows for a payment through ACH debit process. Account changes may be submitted and other account services are available.

Q. What is the unemployment tax rate for a new employer?

- A. A new employer receives an assigned beginning tax rate based on its industrial classification. New employer tax rates can be found on our website at www.dolir.mo.gov/es/ui-tax/ratetabl.htm, or by calling (573) 751-3215.

Q. How can I reduce my unemployment tax rate?

- A. A beginning rate is fixed for all new employers of the same industrial classification and cannot be affected by an employer. However, after two to three years an employer usually becomes eligible for an experience

rate, which is based partly on the claims against the employer's account. An employer may attempt to keep an experience rate lower by maintaining stable employment (few layoffs) and by reviewing unemployment claims against its account to ensure they are not in error. For more information on your account, please call (573) 751-3412.

Q. Is Missouri a “credit reduction state?”

- A. Employers in certain states do not receive the full 5.4 percent credit on their federal unemployment tax for paying state unemployment tax. These are called “credit reduction states.” Missouri is not a credit reduction state.

Q. Where do I get a federal identification number?

- A. The Internal Revenue Service issues federal employer identification numbers (FEIN). The IRS provides information on the Internet at www.irs.gov about who must have an FEIN and how to get one. The site also has an index of some other helpful teletax employer tax topics. You can request a form SS-4 (FEIN application) and instructions by calling the IRS at (800) TAX-FORM or (800) 829-3676.

Q. What are the requirements for federal unemployment tax?

- A. The reporting requirements of the Federal Unemployment Tax Act (FUTA) are similar to those of Missouri unemployment tax, but are **not** identical. The Internal Revenue Service administers the federal unemployment tax act. Contact them for information on your liabilities for federal unemployment tax at (800) 829-1040.

Unemployment Insurance Claims

Q. How does a worker file an unemployment insurance claim?

- A. When a worker becomes partially or totally unemployed, a new or renewed claim may be filed by telephoning a Regional Claims Center. Telephone numbers for the four Regional Claims Centers are: Jefferson City (573) 751-9040; Kansas City (816) 889-3101; Springfield (417) 895-6851 and St. Louis (314) 340-4950. Workers calling from outside the local calling area may use the toll free number (800) 320-2519. The Regional Claims Centers' normal business hours are 8 a.m. to 5 p.m. Central Time, Monday through Friday.

A worker may also file a claim by accessing the Division of Employment Security's Internet site 24-hours a day at www.mocclaim.com, or through the Missouri State Government Home Page at www.missouri.gov and then clicking on "on-line services" and scrolling down to the Department of Labor and Industrial Relations.

Q. How much can a worker receive in unemployment insurance benefits?

- A. Although unemployment insurance benefits are subject to change by the Missouri Legislature, as of April 2006, the weekly benefit amounts payable in Missouri range from \$48 to \$270. The maximum weekly benefit amount will increase to \$280 in January 2007. A worker may be qualified for up to 26 times the weekly benefit amount during the benefit year. The amount a qualified worker may receive is figured on wages paid to the worker during the 12-month period consisting of the first four of the last five completed calendar quarters before the beginning date of the claim. Weekly benefits for insured workers will be three and three fourths percent of the highest quarter wages, not to exceed the maximum per week. Effective October 1, 2006, this will change to four percent of the highest quarter of wages, not to exceed the maximum per week.

Q. Who pays for these benefits?

- A. Generally, the costs for the benefits are paid by employers liable for unemployment insurance taxes under the Missouri Employment Security Law. Each employer's account is charged in ratio to the amount of the workers' wages paid by the employer during the workers' base period. An employer's account may be relieved of charges if it is found the worker

committed a disqualifying act, such as being fired for misconduct connected to the work or quitting for reasons not attributable to the work or the employer. Governmental and eligible nonprofit organizations that have chosen to be reimbursable employers are not relieved of charges based on a worker's disqualification. Nothing is withheld from the worker's check to pay for unemployment insurance benefits.

Q. How do I know if a current or former worker has filed a claim for unemployment insurance?

- A. If a claim has been filed, you will receive a written notice from the Division of Employment Security. The three most common notices are: "Notice to Base Period Employer of Claim Filed for Unemployment Benefits," "Notice to Last Employer of Claim Filed for Unemployment Benefits," and "Notice of Renewal of Claim for Unemployment Benefits."

Q. How do I object to a worker receiving unemployment insurance benefits?

- A. You must file a written protest by mail or fax within the time limits specified on the claims notice. It is important that the protest be filed in a timely manner. The address and fax number of the appropriate Regional Claims Center is on the notice.

Q. What happens if I don't file a protest within the time limits specified on the claims notice?

- A. If a timely protest is not filed, you lose the right to have the Appeals Tribunal review the case if unemployment insurance benefits are allowed.

Q. What are some reasons to protest a claim?

- A. You may protest any time there is a belief that the worker should be denied unemployment insurance benefits. In general, you should protest the claim if the worker quit for reason(s) not attributable to the work or the employer, or if the worker was fired for misconduct connected to the work. You should also protest if the worker has refused work or if you know that the worker is not able to work or available for fulltime work. A few other reasons for protesting a claim include, but are not limited to: a) receipt of vacation pay; b) receipt of a company funded pension; c) involvement in a labor dispute such as a strike or lockout at the employer's business premises; d) receipt of workers' compensation, and

e) suspension from the job for reasons constituting misconduct connected to the work.

Q. What should I include in the protest?

A. You should include the details of the incident(s) that caused the separation from the job or any other details that will support the contention that the worker should not be paid unemployment insurance benefits. Other documents such as copies of pertinent personnel policies, documentation of disciplinary warnings or actions, copies of medical or laboratory reports, and/or any other items that might support the protest can be included. It is also helpful to include the name and telephone number of a contact person within your business in case the Division of Employment Security needs additional information.

Q. How do I know the outcome of my protest?

A. If a timely protest to the notice of claim has been filed, the Division of Employment Security will notify you in writing when a determination has been made regarding the issues raised in the protest. If you disagree with the determination, the appeal rights and the time frame for filing a timely appeal are contained in the notification.

Q. Where can I find additional information about unemployment insurance?

A. The Division of Employment Security has numerous booklets and pamphlets that employers can request free of charge. This material explains other aspects of unemployment claims, benefit charges and employers' rights and responsibilities. Employers may also visit the Division of Employment Security's website at www.dolir.mo.gov/es/. Employers can submit questions through the Internet by sending an e-mail to: weblord@dolir.mo.gov or can write to:

Missouri Division of Employment Security
421 East Dunklin Street
P. O. Box 59
Jefferson City, Missouri 65104-0059

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Division of Employment Security
421 East Dunklin Street
P.O. Box 59
Jefferson City, MO 65104-0059

Telephone: (573) 751-3215

Fax: (573) 751-4945

Claims E-mail: esuiclaims@dolir.mo.gov

Tax E-mail: esemptax@dolir.mo.gov

Web Address: www.dolir.mo.gov/es

Frequently Asked Questions About

Unemployment Insurance Appeals

Q. How do I appeal an unemployment insurance determination?

- A. Send your letter of appeal to the address or fax number listed on the determination. In your appeal letter, you should indicate why you disagree with the determination and include the issue number (if any) from the determination and the claimant's social security number. You have 30 days from the date of the determination to file an appeal. In most cases, the last day to file an appeal is listed on the determination.

Q. Who can file an unemployment insurance appeal?

- A. Any officer or managerial employee of the employer, a licensed attorney on the employer's behalf or the claimant may file an appeal of the deputy's determination. The appeal should be signed.

Q. What happens once an appeal is filed?

- A. The Appeals Tribunal will acknowledge the receipt of the appeal and provide each party with a copy of the pamphlet Information for Appeals Tribunal Hearings. The Appeals Tribunal will notify you when a hearing is scheduled. Most hearings are done by telephone, but a party can request an in person hearing. The Appeals Tribunal will also provide each party with a copy of the Division's file for the issue under appeal.

Q. What happens if one of the parties doesn't participate in the hearing?

- A. If you are the appealing party and do not participate in the hearing the appeal will be dismissed and the deputy's determination will stay the same. If the claimant appealed and you do not take part in the hearing, the referee's decision may be based solely on the claimant's testimony. Therefore, it is very important that you participate in the hearing unless a postponement is granted.

Q. What should I do if I cannot participate in the hearing?

- A. Notify the referee assigned the case immediately when you know you cannot participate in the scheduled hearing and request a postponement. The referee's name is located in the middle of the **Notice of Hearing**. The referee's telephone and fax number are printed at the bottom of the

Notice of Hearing. Postponements are rarely granted and only for exceptional reasons. Make sure that you notify the referee as soon as possible before the hearing if you are unable to participate for any reason.

Q. How should I prepare for the hearing?

- A. Start immediately to gather any papers relating to the issues such as correspondence from the claimant, union contracts, warning notices or medical statements. Also, be certain that any witnesses or others with direct knowledge of the events in question are available to participate in the hearing.

It is your responsibility to present evidence and testimony to prove your case. The referee will not investigate or contact witnesses for you. The referee will decide the case upon the evidence that is presented in the hearing.

If the hearing is scheduled to be held by telephone conference, you must call the toll-free telephone number provided on the **Notice of Hearing** to provide a telephone number where you can be reached for the hearing. You must also provide the name and telephone number of each witness who has agreed to testify in the hearing. You must provide these telephone numbers each time the case is rescheduled.

If you intend to present exhibits in a telephone hearing, you must mail, fax or deliver one copy of each exhibit to the claimant and the referee prior to the hearing. You should provide copies of the exhibits to the claimant and the referee each time the case is rescheduled.

Since the hearing with the referee is the one chance you will have to tell your story, be prepared to tell the referee everything you think is important and to present all witnesses and evidence at the hearing. You will not be allowed another hearing by the Labor and Industrial Relations Commission to present evidence which you failed to offer the first time unless you show that it is newly discovered evidence.

Q. How will I be informed of the decision?

- A. A written decision will be mailed to you, your attorney, the claimant and the claimant's attorney, if any, as soon as possible. The decision will explain your right of appeal if you are dissatisfied with the decision.

Q. What can I do if the appeal decision is not in my favor?

- A. If you disagree with the referee's decision, you can appeal to the Labor and Industrial Relations Commission. You are not required to state the reasons why you disagree with the decision but you may set out a brief statement of why you think the decision is incorrect. If you did not take part in the referee's hearing, the case will not be reopened unless you establish that you had a good reason for not participating. If the case is reopened, another hearing will be held and a new decision will be issued, which can also be appealed.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Division of Employment Security

Appeals Section

421 East Dunklin Street

P.O. Box 59

Jefferson City, MO 65104-0059

Telephone: (573) 751-3913

Fax: (573) 751-5620

Appeals E-mail: appeals@tribunal.dolir.mo.gov

Web Address: www.dolir.mo.gov/es/appeals

Frequently Asked Questions About

Unemployment Insurance Hearing Decision Appeals

Q. How do I appeal a hearing decision to the Labor and Industrial Relations Commission?

- A. Use the **Application for Review** form or file the appeal by letter. If you would like a copy of the form, please call the Commission at (573) 751-2461 or visit www.dolir.mo.gov/lirc/commission/appealsui.htm. Appeals must be taken within 30 days of the appeals referee's decision.

Q. How do I appeal a Commission decision in unemployment cases?

- A. An appeal must be taken to the Missouri Court of Appeals within 30 days. File Form 8-B, **Unemployment Insurance Notice of Appeal** with the Labor and Industrial Relations Commission. If you would like a copy of this form, please call the Commission at (573) 751-2461 or visit www.dolir.mo.gov/lirc/commission/appealsui.htm.

Q. Do I need an attorney to represent me?

- A. Employers may file an **Application for Review** to the Labor and Industrial Relations Commission. All employers, with the exception of sole proprietors, will need an attorney to file any additional motions or briefs with the Commission and to proceed with an appeal to the Missouri Court of Appeals.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Labor and Industrial Relations Commission
3315 West Truman Boulevard Room 214
P.O. Box 599
Jefferson City, MO 65102-0599
Telephone: (573) 751-2461
Fax: (573) 751-7806
E-mail: lirc@dolir.mo.gov

Frequently Asked Questions About

Workplace Discrimination

Q. What is the legal definition of sexual harassment?

- A. Sexual harassment is defined as any behavior of a sexual nature that is unwelcome. It includes verbal comments as well as physical touching, “dirty” pictures or lewd jokes. Situations are analyzed on a case-by-case basis.

Q. What is discrimination?

- A. Discrimination is treating a person or a group of persons worse than others are treated under the same or similar circumstances, or denying a person or persons the same benefits or privileges provided to others because of that person’s race, color, sex, age (40-69 in employment only), national origin, ancestry, religion, disability or familial status (families with children in housing only).

Q. What kind of questions should I avoid asking in a job interview?

- A. Any questions about race, ethnic origin, age or sex are prohibited. If the person has a recognizable disability, an employer can ask if the person will need a specific accommodation to perform the essential functions of the job. The Missouri Commission on Human Rights has a brochure that describes the types of questions that are and are not acceptable. The brochure is titled the **Revised Guide to Pre-Employment Inquiries** and is available free of charge by contacting any of the offices of the Missouri Commission on Human Rights or visiting their website at www.dolir.mo.gov/hr. Contact information can be found following this section.

Q. Do I have to let a pregnant employee work until she has a doctor’s release, or can I relieve her of her duties now?

- A. The employee should be allowed to work until her doctor tells her she must quit work.

Q. I need to downsize my staff. Will I get into trouble if I only lay-off the older worker?

- A. Under the Missouri Human Rights Act, employees are protected from age discrimination from ages 40-69 and under the federal Age Discrimination in Employment Act from age 40 and up. With few

exceptions it is an unlawful discriminatory practice to use an employee's age as the basis for decisions about their employment.

Q. My employee hurt his back while playing football and he is temporarily restricted from heavy lifting. His job requires heavy lifting and I don't have any other work for him to do. Can I lay him off?

A. An employer can lay off this employee without violating the Missouri Human Rights Act and the Americans with Disabilities Act. Employers are required to reasonably accommodate an employee with a disability. In order to be considered a person with a disability they must have a permanent impairment that substantially limits one or more major life activities. This condition is temporary so it is not considered a disability and therefore your action is not illegal under these state and federal laws.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Missouri Commission on Human Rights
3315 West Truman Boulevard Room 212
P.O. Box 1129
Jefferson City, MO 65102-1129
Telephone:

Jefferson City: (573) 751-3325

St. Louis: (314) 340-7590

Fax: (573) 751-2905

E-mail: mchr@dolir.mo.gov

Frequently Asked Questions About

The Family Medical Leave Act (FMLA)

Q. Who does the FMLA apply to?

A. FMLA applies to all:

- Public agencies, including state, local and federal employers, local education agencies (schools), and
- Private-sector employers who employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year and who are engaged in commerce or in any industry or activity affecting commerce – including joint employers and successors of covered employers.

Q. How much leave is an employee entitled to under FMLA?

A. Eligible employees are entitled to 12 weeks of leave for certain family and medical reasons during a 12-month period.

Q. Which employees are eligible to take FMLA leave?

A. Employees are eligible to take FMLA leave if they have worked for their employer for at least 12 months, and have worked for at least 1,250 hours over the previous 12 months, and work at a location where at least 50 employees are employed by the employer within 75 miles.

Q. How is the 12-month period calculated under FMLA?

A. Employers may select one of four options for determining the 12-month period:

- The calendar year;
- Any fixed 12-month “leave year” such as a fiscal year, a year required by state law, or a year starting on the employee’s “anniversary” date;
- The 12-month period measured forward from the date any employee’s first FMLA leave begins; or
- A “rolling” 12-month period measured backward from the date an employee uses FMLA leave.

Q. Do the 12 months of service with the employer have to be continuous or consecutive?

A. No. The 12 months do not have to be continuous or consecutive; all time worked for the employer is counted.

Q. Do the 1,250 hours include paid leave time or other absences from work?

A. No. The 1,250 hours include only those hours actually worked for the employer. Paid leave and unpaid leave, including FMLA leave, are not included.

Q. Does the FMLA guarantee paid time off?

A. No. The FMLA only requires unpaid leave. However, the law permits an employee to elect, or the employer to require the employee, to use accrued paid leave, such as vacation or sick leave, for some or all of the FMLA leave period. When paid leave is substituted for unpaid FMLA leave, it may be counted against the 12-week FMLA leave entitlement if the employee is properly notified of the designation when the leave begins.

Q. Can the employer count time on maternity leave or pregnancy disability as FMLA leave?

A. Yes. Pregnancy disability leave or maternity leave for the birth of a child would be considered qualifying FMLA leave for a serious health condition and may be counted in the 12 weeks of leave so long as the employer properly notifies the employee in writing of the designation.

Q. Who is considered an immediate “family member” for purposes of taking FMLA leave?

A. An employee’s spouse, children (son or daughter), and parents are immediate family members for purposes of FMLA. The term “parent” does not include a parent “in-law”. The terms son or daughter do not include individuals age 18 or over unless they are “incapable of self-care” because of mental or physical disability that limits one or more of the “major life activities” as those terms are defined in regulations issued by the Equal Employment Opportunity Commission (EEOC) under the Americans With Disabilities Act (ADA).

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

US Department of Labor
Wage and Hour Division
Telephone: (866) 487-9243

Frequently Asked Questions About

Wages and Workplace Standards

Q. Are breaks or lunch periods required?

- A. There are no state laws regarding breaks or lunch periods. These issues might be addressed by company policy, or could be covered by union contract.

Q. Are benefits such as vacation, sick leave and health insurance required?

- A. Missouri has no law requiring paid vacations for private sector employment. This is an issue that must be addressed by the employee with his or her employer. The state of Missouri does not have a law that requires employers to offer any type of fringe benefit, such as insurance or sick leave.

Q. When are final wages due to a terminated employee?

- A. Wages are due at the time of termination. If not paid at that time, the employee should contact their former employer by certified mail return receipt requested, requesting wages that are due. The employer has seven days to respond to the written request. If the employer does not respond in seven days, because the state of Missouri does not have authority to collect wages for any individual, any moneys due would have to be collected by private legal action. Suit may be filed in small claims court if the amount claimed is under \$3,000 or by private legal action for a greater amount.

Q. When are final wages due to an employee who quits?

- A. There are no requirements under Missouri law that address when wages are due when an employee quits a job. If wages are not paid by the next regular pay period, then the wages would have to be collected by legal action. If the amount claimed is less than \$3,000 the employee can file for the amount due in small claims court or by private legal action for a greater amount.

Q. Do I have to furnish employees with a statement of deductions?

- A. At least once a month you are required to furnish employees a statement of deductions as part of a check or in a separate document. If an employee does not receive a statement of deductions, they must take private legal action to get one.

Q. Can I require my employees to work more than eight hours a day or more than 40 hours a week?

- A. There are limitations of working hours in certain industries without the consent of the employee. (See Sections 290.010 and 290.020 RSMo). Missouri has no laws restricting the number of hours an employer can require an employee to work in other industries. If the employee refuses to work the requested hours, you can terminate the employee without violating any laws. If the employee is covered under the federal overtime law, (if the businesses' gross annual volume sales made or business done is more than \$500,000), they are to be paid time-and-one-half for any hours over 40 hours in a workweek.

Q. Can I reduce the wages of my employees?

- A. An employer can reduce an employee's wages without violating any law. However, an employer subject to the Federal Fair Labor Standards Act (FLSA) may not reduce an employee's wages below the federal minimum or below state minimum wage. Missouri law requires employers to give a 30-day written notice of reduction of wages. No state agency enforces this law. Recovery of wages under this statute would have to be done by a private legal action.

Q. Is an employee required to give two weeks notice when he or she quits?

- A. No. Missouri courts go by a doctrine of "Employment-at-Will" which does not require any notice. The state laws provide no requirement for notice from or for employers.

Q. When does overtime come into effect?

- A. Overtime is based on a 40-hour workweek, not an eight-hour day. The Federal Fair Labor Standards Act (FLSA) requires certain employers to pay one-and-one-half times the regular rate of wages for hours over 40 in a workweek.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Division of Labor Standards
3315 West Truman Boulevard Room 205
P.O. Box 449
Jefferson City, MO 65102-0449
Telephone: (573) 751-3403

Fax: (573) 751-3721

E-mail: [**laborstandards@dolir.mo.gov**](mailto:laborstandards@dolir.mo.gov)

Frequently Asked Questions About

Child Labor Law

Q. At what age can a young person start working?

A. Young people under the age of 14 are allowed to work only in limited areas such as the entertainment industry. Young people 14 to 15 years of age are permitted to work in a number of different types of businesses, with the majority working in some form of retail or food services. The employment of young people over the age of 16 does not fall under Missouri law, but some restrictions do exist under federal law.

Q. What jobs are not allowable?

A. Prohibited occupations generally involve dangerous equipment (cookers, slicers), dangerous materials (such as toxic chemicals) or dangerous duties (driving, roofing). In addition there are specific restrictions regarding employment in hotels and in businesses that sell alcoholic beverages. For specific descriptions of allowable working hours and prohibited occupations, please call the Division of Labor Standards at (573) 751-3403, e-mail childlabor@dolir.mo.gov, or see Section 294.040 of the Revised Statutes of Missouri.

Q. If a young person works for a parent does the law still apply?

A. The only allowable exemption occurs when the business is owned by the parent or legal guardian and the child remains under the direct control of the parent or legal guardian. If the parent is simply a supervisor, the law still applies.

Q. If the parent, the employer and the young person all agree upon the terms of employment, does the law still apply?

A. Yes. There can be no “mutual agreement” to violate the law.

Q. What is a work certificate?

A. This is a form any person 14 to 15 years of age must give to an employer before working during the school months. The work certificate is issued by the local school superintendent’s office and requires certain information about the employee, the employer, and the type of work. The work certificate also requires parental consent and approval of the issuing office. Parental consent is required when obtaining a work certificate, but parental consent by itself is not enough. Only complete work certificates are valid.

Q. Is a home/private-schooled student required to have a work certificate?

- A. A work certificate is required for all working youth under the age of 16 regardless of where they are educated.

Q. Can the issuance of a work certificate be denied?

- A. A work certificate shall be issued after the issuing officer is assured that the youth has parental consent and is satisfied that the employment will serve the best interest of the youth. Consideration for denial may include, among other things, that there is a possibility of engaging in a prohibited occupation, or the appearance of working times or hours not in compliance. It may also include verification of academic standing.

Q. What is a work permit?

- A. A work permit, more commonly called an entertainment permit, is a form issued by the Division of Labor Standards permitting an individual younger than the age of 16 to work in the entertainment industry.

Q. What if Missouri law and federal law do not agree?

- A. The federal law, specifically known as the Fair Labor Standards Act, applies when a company does over \$500,000 in annual business, or engages in interstate commerce. When both Missouri law and the federal law apply but do not agree on a particular point, the stricter law applies, but both sets of laws must be complied with.

Q. How can I find comprehensive information on Missouri's child labor?

- A. Please visit www.teensworksafe.com or call (573) 751-3403.

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Division of Labor Standards
3315 West Truman Boulevard Room 205
P.O. Box 449
Jefferson City, MO 65102-0449
Telephone: (573) 751-3403
Fax: (573) 751-3721
E-mail: childlabor@dolir.mo.gov
Web Address: www.teensworksafe.com

Frequently Asked Questions About

Workplace, Mine and Cave Safety

Q. Where do I find workplace safety and health requirements for businesses in Missouri?

A. The federal Department of Labor–Occupational Safety and Health Administration (OSHA) is responsible for administering workplace safety and health regulations in Missouri. You may reach OSHA in St. Louis at (800) 392-7743 or in Kansas City at (800) 892-2674. You may also call the Missouri On-Site Safety and Health Consultation Service at (573) 751-3403. You may visit OSHA's website at www.osha.gov or On-Site's website at www.dolir.mo.gov/lr/safetyconsultation.

Q. Are publicly funded (state, county, city) facilities required to follow OSHA regulations in Missouri?

A. No. While OSHA requires all employers, both private and public, to provide a safe workplace, they have no enforcement authority in public facilities and therefore will not conduct inspections in public facilities.

Q. What record keeping forms am I required to complete to meet OSHA requirements?

A. The required OSHA forms to be completed by the employer are the series 300 forms. These include the form 300, Log of Work-Related Injuries and Illnesses; form 300A, Summary of Work-Related Injuries and Illnesses; and form 301, Injury and Illness Incident Report. You may find the forms at www.osha.gov.

Q. Who can I contact if I need workplace safety or health training for my employees, assistance with OSHA regulations, or possible hazard control measures?

A. The Missouri On-Site Safety and Health Consultation Program is able to assist small business employers in Missouri with no-cost workplace safety and health audits, chemical or noise monitoring, employee training in OSHA regulations, and safety and health program management techniques. You may request these services by calling (573) 751-3403 or visiting www.dolir.mo.gov/lr/safetyconsultation.

Q. Where can I obtain mine safety training materials and forms?

A. Mine Safety and Health Administration (MSHA)

Field Office

901 Pine, Room 308

Rolla, MO 65401

(573) 364-8282

District Office

1100 Commerce St., Room 4C50

Dallas, TX 75252-6499

(214) 767-8401

National Mine Health and Safety Academy

Department of Instructional Materials

1301 Airport Road

Beaver, WV 25813-9426

Phone: (304) 256-3257

Fax: (304) 256-3368

Q. I am a contractor, do I need training?

A. If you meet any of the following criteria you must have Miner Safety and Health Training.

- You are engaged in the mining process;
- You are exposed to mining hazards at the mine site; or
- You are at the mine site on a frequent basis performing work.

Q. What does Mine Safety and Health Training cost?

A. There is no cost to the miner or mine operator. Training is funded by a grant from the Mine Safety and Health Administration (MSHA).

Q. I am a contractor for surface and underground mines. What type of training must I have?

A. All of your employees that work at surface mines must receive Part 48 Training and Retraining for Miners except for those who work in shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mines. They must attend Part 46 Training and Retraining of Miners.

Q. How many hours of training must I provide to a new mine employee?

A. If your operation is a surface mine, new employees must receive 24 hours of training—Part 46 New Miner Training, for those who work in shell dredging, sand, gravel, surface stone, surface clay, colloidal phosphate or surface limestone mines, or Part 48 Surface New Miner Training. If your operation is underground, new employees must receive 40 hours of training under Part 48 New Miner Training. For more information, visit www.msha.gov.

Q. What types of mining operations does the state of Missouri inspect?

A. Coal, clay, shale, iron, lead, zinc, copper, silica sand and granite mining operations.

Q. How can I schedule a consultation to help me compile a proper mine safety and health program?

A. Call the Division of Labor Standards' Mine and Cave Safety and Health Program at (573) 751-3403 or e-mail us at minesafety@dolir.mo.gov to schedule an appointment.

Q. I work for an underground mining company. Do I have to work longer than eight hours a day?

A. It is unlawful for any operator engaged in mining or prospecting for minerals to work any employee longer than eight hours in a day of 24 hours without his or her consent.

Q. Does Missouri require a blasting certification for mining companies?

A. No. Missouri does not require a certified blaster to conduct blasting operations.

Frequently Asked Questions About

Workers' Compensation

Q. What is the Missouri Workers' Safety Program (MWSP)?

- A. The MWSP is an outreach program of the Missouri Division of Labor Standards. The program's safety consultants help employers reduce workplace accidents and provide advice on ways to reduce workers' compensation insurance premiums.

The program also:

- Certifies the safety programs available from insurance carriers;
- Certifies safety consultants and engineers available for hire;
- Provides free copies of a wide variety of safety publications;
- Provides employers with a lending library of safety videos at no charge.

MWSP services are offered at no charge and with "no strings attached." They do not cite, fine or penalize employers in any way. The MWSP does not make referrals to OSHA.

Q. Am I required to carry workers' compensation insurance?

- A. According to Missouri law, workers' compensation coverage is compulsory for all employers who have five or more employees. Construction industry employers who erect, demolish, alter or repair improvements must carry workers compensation insurance if they have one or more employees. Partners and sole proprietors may elect to obtain workers' compensation coverage on themselves. Any employer who is not required by law to carry workers' compensation coverage may elect coverage by purchasing and accepting a valid workers' compensation insurance policy.

Q. Who determines the medical care for the injured worker?

- A. The employer has the right to select the health care provider such as the doctor, hospital or clinic. Often, the employer allows the insurance company to make this selection. The employer is not required to, but may change treating physicians when asked to do so by the injured worker.

Q. Can a corporation be exempt from workers' compensation requirements?

A. A corporation may be exempt from workers' compensation requirements only if there are no more than two owners of the corporation and those two owners are the only employees of the corporation. Such a corporation may be exempt only after filing with the Division a **Notice of Election to Withdraw** (Form 65). This notice may be requested by calling (573) 751-4231.

Q. Who is an "employee" under the workers' compensation law?

A. An employee is defined as every person in the service of any employer pursuant to any contract of hire or pursuant to any appointment or election including executive officers of a corporation. An employee is covered whether full or part-time and an employee is covered from the first day on the job.

Q. How can I find an insurance company?

A. Visit the Missouri Department of Insurance's website at www.insurance.mo.gov to find out what rates insurance companies may offer for certain classes of business. You need to know the four-digit class code in order to determine the applicable rates. Class codes can be obtained from the National Council on Compensation Insurance by calling (800) 622-4123.

Q. Can a contractor require a sub-contractor or independent contractor to carry workers' compensation insurance on themselves and their employees?

A. Yes, although a sub-contractor or independent contractor may be a sole proprietor and not required to carry workers' compensation insurance under the law. The contractor, as part of the contract, may choose to hire only those contractors who carry their own workers' compensation insurance.

Q. What is the self-insurance program?

A. The self-insurance program offers an alternative to traditional workers' compensation insurance policies. For an employer to self-insure its workers' compensation liabilities, the employer must satisfy the requirements of the Division. The Division's requirements include financial soundness, acceptable safety and health program, appropriate case management and administrative ability to manage the self-insurance

program. Larger employers may apply to self-insure individually. Small to midsize employers may use trust funds as a means to self-insure. For further information, call (573) 526-3692 or e-mail workerscomp@dolir.mo.gov.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Division of Workers' Compensation
3315 West Truman Boulevard Room 131
P.O. Box 58
Jefferson City, MO 65102-0058
Telephone: (573) 751-4231
Fax: (573) 751-2012
E-mail: workerscomp@dolir.mo.gov

Frequently Asked Questions About

Workers' Compensation Award Appeals

Q. How can I appeal to the Labor and Industrial Relations Commission on a workers' compensation case?

- A. Use the **Application for Review** form found at www.dolir.mo.gov/lirc/commission/appealswc.htm or you may call the Commission at (573) 751-2461 for a copy. You may also submit your appeal by letter. Appeals must be taken within 20 days of the award.

Q. How do I appeal a Commission decision in a workers' compensation case?

- A. An appeal must be taken to the Missouri Court of Appeals within 30 days. Please use Form 8-C Notice of Appeal. For a copy of this form, visit www.dolir.mo.gov/lirc/commission/appealswc.htm or call the Commission at (573) 751-2461.

Q. If I am an uninsured employer, will I need to file a bond if I appeal an adverse decision to the Labor and Industrial Relations Commission?

- A. If the Division of Workers' Compensation determines the employer to be operating under the provisions of the Workers' Compensation Act and the administrative law judge makes a finding the employer is uninsured, a surety bond must be filed with the Application for Review to the Labor and Industrial Relations Commission.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Labor and Industrial Relations Commission
3315 West Truman Boulevard Room 214
P.O. Box 599
Jefferson City, MO 65102-0599
Telephone: (573) 751-2461
Fax: (573) 751-7806
E-mail: lirc@dolir.mo.gov

Frequently Asked Questions About

Public Sector Labor Law

Q. Who administers the Public Sector Labor Law?

- A. One of the duties of the Labor and Industrial Relations Commission is to determine upon petition an appropriate bargaining unit of public employees who are interested in organizing. The Commission also conducts elections to determine majority representative status.

Q. What is the Labor and Industrial Relations Commission's jurisdiction?

- A. Certain public employees have the right to join a union; however, they have no right to strike to enforce any agreements they may reach with the public employer.

Jurisdiction includes all public employees employed by:

- Counties
- Municipalities
- School Districts
- Special Districts
- State Government

Excluded public employees include police, deputy sheriffs, Missouri State Highway Patrol, Missouri National Guard and all teachers in Missouri schools, colleges and universities.

Q. What is the meet and confer process?

- A. Missouri's Public Sector Labor Law requires the public employer to meet and confer with the certified bargaining representative to discuss proposals relative to salaries and other conditions of employment. The results of the meet and confer process are reduced to writing in the form of a Memorandum of Understanding and submitted to the public employer's governing body for approval, modification or rejection.

Q. What is the certification process?

- A. The steps involved in filing a petition for certification with the Commission are:
- A petition is filed with the Commission by any public employee, group

of public employees or employee organization claiming to represent a majority.

- The petitioner must present a 30% showing of interest to continue the process.
- A preliminary conference is held to determine an appropriate bargaining unit of employees and to set up an election.
- If the parties are not in agreement, the chairman sets a formal hearing at a later date. Based on the evidence presented at the hearing, the commissioners issue a written decision concerning the bargaining unit.
- The Commission conducts an election for the eligible employees to decide on union representation. In order to be certified, the union must receive a majority of the votes cast.
- The parties are given ten days to file objections to the election.
- If no objections are filed, the Commission issues a certification of the results of the election.
- Appeals may be filed with the circuit court.

For clarification on any questions/answers in the above section or if you desire additional related information please contact:

Labor and Industrial Relations Commission
3315 West Truman Boulevard
P.O. Box 599
Jefferson City, MO 65102-0599
Telephone: (573) 751-2461
Fax: (573) 751-7806
E-mail: lirc@dolir.mo.gov

Employer Required Federal & State Workplace Posters

Various state and federal laws require employers to display certain posters for the benefit of employees in order to inform them of key provisions in the law. The following information has been collected to act as a guide in obtaining required posters.

The information does not suggest that these are the only posters required nor does it relieve employers of the responsibility of posting required notices not included in this guide. The following only describes required posters commonly requested of the Missouri Department of Labor and Industrial Relations.

The posters described are those that are required to be displayed in the broad spectrum of business and industry in Missouri. Laws affecting a smaller number of employees may require posting additional posters.

Covered employers should display the required posters where they may be seen by prospective employees and close to the employee clocks or other appropriate places where present employees may view them.

Posters required by Missouri state government

1. Poster **MODES-B-2 Notice to Workers Concerning Unemployment Benefits**. Required by Division of Employment Security regulation 8 CSR 10-3.070.
2. Poster **WC-106 Workers' Compensation**. Required by section 287.127 of the Missouri Revised Statutes.
3. Poster **MCHR-9 Discrimination in Employment**. Required by Missouri Commission on Human Rights.
4. Poster **LS-52 Missouri Minimum Wage Law**. Required by Missouri Revised Statutes, Section 290.522.

Items 1, 2 or 3 may be requested from the:

Missouri Department of Labor and Industrial Relations
Administrative Services Section
PO Box 59

Jefferson City MO 65104-0059
(573) 751-3194

or can be downloaded from the Department's website at
www.dolir.mo.gov/posters2.htm.

The Rules and Regulations of the Missouri Commission on Human Rights require that all employers doing business in places open to the public post MCHR-7 Discrimination in Public Accommodations. MCHR-6 Discrimination in Housing is required to be posted by employers in the business of sale or rental or housing.

MCHR-6 and MCHR-7 posters may be requested from the:

Missouri Commission on Human Rights
3315 W. Truman Blvd., Ste. 212
Jefferson City, MO 65102-1129

or can be downloaded from the Department's website at
www.dolir.mo.gov/posters2.htm.

Posters Required by United States government

4. **Equal Employment Opportunity is the Law**, this is a multi-purpose poster which helps ensure compliance with federal civil rights statutes and regulations. Every employer, employment agency and labor organization is required to display this poster in a conspicuous place. You can request a copy from:

Equal Employment Opportunity
Room 8.100 RA Young Building
1222 Spruce Street
St. Louis, MO 63103
(314) 539-7800

Equal Employment Opportunity
Suite 905
400 State Avenue
Kansas City, MO 66101
(913) 551-5655

or can be downloaded from the Department's website at
www.dolir.mo.gov/posters2.htm.

5. Wage and Hour Publication 1088 **Your Rights Under the Fair Labor Standards Act – Federal Minimum Wage.**
6. Wage and Hour Publication 1420 **Your Rights Under the Family and Medical Leave Act of 1993.**
7. Wage and Hour Publication 1462 **Notice: Employee Polygraph Protection Act.**

Items 5, 6 or 7 may be requested from the:

U.S. Department of Labor, Wage and Hour Division
Room 9.102B R. A. Young Building
1222 Spruce
St. Louis MO 63103
(314) 539-2706

U.S. Department of Labor, Wage and Hour Division
Gateway II, Suite 706
400 State Avenue
Kansas City KS 66101
(913) 551-5721

or can be downloaded from the Department's website at www.dolir.mo.gov/posters2.htm. Additional posters may be required. For more information, contact the U.S. Department of Labor at either address shown above.

8. Occupational Safety and Health Administration Publication 3165 **Job Safety and Health Protection.** This is required by regulations issued by the U.S. Secretary of Labor. You can request a copy from the:

Occupational Safety and Health Administration
Room 420
911 Washington
St. Louis MO 63101
(314) 425-4249

Occupational Safety and Health Administration
Suite 100
6200 Connecticut
Kansas City MO 64105
(816) 483-9531.

Employers who are performing government contract work are required to display federal Wage and Hour Publications 1313 and 1321 **Notice to Employees Working on Government Contracts**, depending on the contract. If the poster cannot be obtained from the contracting government agency upon signing of such contracts or information is needed regarding which poster is required, contact the U.S. Department of Labor, Wage and Hour Division as previously described for Items 5, 6 and 7.

9. **Your Rights Under USERRA – The Uniformed Services Employment and Reemployment Rights Act.** Required by the Veterans Benefits Improvement Act. For more information about this poster or the Uniformed Services Employment and Reemployment Rights Act (USERRA), contact:

US Department of Labor
Veterans' Employment and Training Service
200 Constitution Avenue
N.W., Room S-1325
Washington, D.C. 20210
1-866-4-USA-DOL

USDOL/Veterans' Employment and Training Service
421 E. Dunklin St.
P.O. Box 59
Jefferson City, MO 65104-0059
(573) 751-3921

This poster can be downloaded from the following website:
www.dol.gov/vets/programs/userra/poster.pdf

For additional information regarding required state and federal posters, please contact:

Missouri Department of Labor and Industrial Relations
Administrative Services
P.O. Box 59
Jefferson City MO 65104-0059
(573) 751-3194

Contact Information

Division of Employment Security

421 East Dunklin Street

PO Box 59

Jefferson City, MO 65104-0059

Telephone: (573) 751-3215

Fax: (573) 751-4945

Claimants E-mail: esuiclaims@dolir.mo.gov

Employers E-mail: esemptax@dolir.mo.gov

Appeals E-mail: appealstribunal@dolir.mo.gov

Division of Labor Standards

3315 West Truman Boulevard Room 205

PO Box 449

Jefferson City, MO 65102-0449

Telephone: (573) 751-3403

Fax: (573) 751-3721

E-mail: laborstandards@dolir.mo.gov

childlabor@dolir.mo.gov

safetyconsultation@dolir.mo.gov

minesafety@dolir.mo.gov

cavesafety@dolir.mo.gov

Division of Workers' Compensation

3315 West Truman Boulevard Room 131

PO Box 58

Jefferson City 65102-0058

Telephone: (573) 751-4231

Fax: (573) 751-2012

E-mail: workerscomp@dolir.mo.gov

Labor and Industrial Relations Commission

3315 West Truman Boulevard Room 214

PO Box 599

Jefferson City, MO 65102-0599

Telephone: (573) 751-2461

Fax: (573) 751-7806

E-mail: lirc@dolir.mo.gov

Missouri Commission on Human Rights

3315 West Truman Boulevard Room 212

PO Box 1129

Jefferson City, MO 65102-1129

Telephone: (573) 751-3325

Fax: (573) 751-2905

E-mail: mchr@dolir.mo.gov



**For additional copies of this publication,
contact Information and Planning at:**

421 East Dunklin Street
P.O. Box 504
Jefferson City, MO 65102-0504
Telephone: (573) 751-7500
Fax: (573) 751-6552

www.dolir.mo.gov

